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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/506,713	02/18/2000	Noriaki Mizutani	49584(904)	7799

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EXAMINER

MANOHARAN, VIRGINIA

ART UNIT

PAPER NUMBER

1764

DATE MAILED: 01/21/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/506,713

Applicant(s)

MIZUTANI ET AL.

Examiner

Virginia Manoharan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 October 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7, 9, 10, 12 and 14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1, 2 and 14 is/are allowed.
- 6) ☒ Claim(s) 3-7, 9-10 and 12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

1. Claims 3-6, 9-10 and 21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a. Claim 12 is an incomplete claim as it depends on a cancelled claim 11.

b. Claim 3 is incomplete with the comma, and not a period after the recitation of "3d".

c. Claim 3 is rejected for the same reason as set forth at page 2, section (a), 1., of the previous Office Action. Since applicants did not address this rejection, it is assumed they are acquiescing therein.

d. The punctuation mark (!) after "to" in claim 4, line 11 is a typographical error.

e. It is unclear whether the "an easily polymerizable compound or a liquid..." recited in the wherein clause of claim 9 is the same or different from the compounds initially recited in lines 1-3 of claim 9. (Underlinings Supplied). Also, the limitation in the "wherein" clause is already recited in claim 9, lines 1-3 claimed twice?

f. In claim 10, line 2, "distillation step" should be distilling step— to be consistent since claim 9, the claim from which it depends recite the latter.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 3 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Hashimoto et al Publication (Properties of Perforated Trays Devoid of Downcomers) and Mitsuho et al "Handbook of Distillation Engineering".

The above references are applied for the same combined reasons as set forth at the paragraph bridging pages 3-4 of the previous Office Action.

Claims 4-6, 9-10 and 12 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

Claims 1-2 and 14 are allowed.

4. Applicant's arguments filed October 17, 2002 have been fully considered but they are not persuasive. Applicants' arguments are irrelevant because claims 3 and 7 are not limited to the argued "...the perforated tray tower without downcomer **which is capable** of concurrently and surely providing the first state where the inside of the perforated tray tower without downcomer is made wet with a liquid containing an easily polymerizable compound **and the second state** where gas and/or liquid currents are prevented from channeling and stagnating, **thereby preventing the formation of polymers with better efficiency**, and distilling an easily polymerizable compound in a stable manner over an extended period of time." commensurate with the arguments. Applicants fail to delineate structures not shown nor render obvious by the prior art. The above arguments are also more "process" rather than apparatus to which the claims are directed. A process limitation is not the basis for patentability of an apparatus claim.

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Thus in the absence of anything which may be "new" or "unexpected result", a prima facie case of obviousness had been established by the art and has not been rebutted.

Unexpected results must be established by factual evidence. Mere arguments or conclusory statements in the specification, applicants' amendments, or the Brief do not suffice.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.


Any inquiry concerning this communication from the examiner should be directed to V. Manoharan whose telephone number is (703) 308-3844. The examiner can generally be reached on Tuesday--Friday from 7:30 a.m. to 6:00 p.m..

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Caldarola can be reached on (703) 308-6824. The fax phone numbers for the organization where this application is assigned are (703) 872-9311 for regular communications and (703) 308-0651 for After Final communications.

Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist whose telephone number is (703) 308-0661.

V. Manoharan/dh
January 16, 2003


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1/16/03